

Disciplinary and Other NASD Actions

REPORTED FOR DECEMBER

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of November 2004.

Firms Fined, Individuals Sanctioned

Davrey Financial Services, Inc. (CRD #38914, Tacoma, Washington) and Pravin Roy Davrey (CRD #2243197, Registered Principal, Tacoma, Washington). The firm was censured, fined \$35,000, and required to submit all of its proposed advertising to NASD's Advertising Regulation Department for "pre-use" approval for a period of two years. Pravin Davrey was suspended from association with any NASD member in any principal capacity for two years and ordered to requalify by exam as a general securities principal and financial and operations principal (FINOP) before again serving in such capacity. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that the firm, acting through Davrey, failed to maintain accurate books and records, in that the firm made payments out of its operating account to certain shareholders pursuant to the terms of two Stock Redemption Agreements, but did not record the corresponding liability on the firm's books and records. NASD also found that Davrey allowed the firm to engage in a securities business when the firm did not meet its minimum net capital requirement. In addition, NASD found that the firm, acting through Davrey, made exaggerated, unwarranted, and misleading statements, and that Davrey failed to provide specific warnings and disclosures required in advertisements regarding options. Moreover, NASD determined that Davrey failed to submit every advertisement pertaining to options to NASD's Advertising Regulation Department at least 10 days prior to use, and failed to include in the advertisement certain required information about how an investor can obtain an Options Disclosure Document.

The firm and Davrey have appealed this action to the Securities and Exchange Commission (SEC) and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C3B020015)

General Securities Corporation (CRD #15062, North Kansas City, Missouri) and David Schumway Miller (CRD #334607, Registered Principal, Liberty, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$20,000, jointly and severally. Miller was suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, the firm and Miller consented to the described sanctions and to the entry of findings that the firm, acting through Miller, permitted Miller to act in a capacity requiring registration as a Limited Representative—Equity Trader (Series 55), although he was not so registered. The findings also stated that the

firm, acting through Miller, failed to prepare an order ticket, failed to record the time of receipt of a public customer's order, and failed to reflect the time of execution for transactions executed by the firm on a principal basis. NASD also found that the firm, acting through Miller, disclosed an inaccurate capacity on a customer confirmation and failed to disclose markups or markdowns on customer confirmations. In addition, NASD found that the firm, acting through Miller, failed to report transactions involving NASDAQ SmallCapSM Market securities, listed securities, and over-the-counter equity (OTC) securities executed by the firm on a principal basis and failed to report accurate information for these transactions. The findings also stated that the firm, acting through Miller, failed to report transactions involving Trade Reporting and Compliance Engine (TRACE) eligible securities.

Miller's suspension began November 15, 2004, and concluded at the close of business November 29, 2004. (NASD Case #C04040047)

Firm and Individual Fined

Hunter, Keith, Marshall & Co. (CRD #11424, New York, New York) and Henry C. Marshall, Jr. CRD #1159809, Registered Representative, Cold Spring Harbor, New York) submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$12,500, jointly and severally. Without admitting or denying the allegations, the firm and Marshall consented to the described sanctions and to the entry of findings that the firm, acting through Marshall, maintained registrations for employees who were not active in the firm's securities and investment banking business and who ceased to function as principals and/or representatives. The findings also stated that the firm, acting through Marshall, permitted an individual to perform in a capacity requiring registration while he was deemed inactive due to his failure to complete timely the Regulatory Element of NASD's Continuing Education Requirements. (NASD Case #C10040102)

Firms Fined

Citigroup Global Markets, Inc. (CRD #7059, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$250,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it made available to its customers fact cards, sales presentations, sales decks and prospecting letters regarding hedge funds and funds of hedge funds that listed a targeted rate of return without providing a sound basis for evaluating the target, improperly used hypothetical returns in charts or graphs, and/or failed to include adequate risk disclosure. (NASD Case #CAF040077)

Fiserv Investor Services, Inc. (CRD #34637, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm, acting through an individual, failed to report transactions in municipal securities and to establish a reasonable supervisory system, including but not limited to, the establishment and maintenance of written procedures reasonably designed to ensure the firm reported transactions involving municipal securities. (NASD Case #C06040032)

Forge Financial Group, Inc. (CRD #100020, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$25,000, and required to revise within 30 business days its written supervisory procedures with respect to applicable securities laws, regulations, and NASD rules concerning trade reporting. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it submitted to the Order Audit Trail SystemSM (OATSSM) reports that were not in the electronic form prescribed by NASD and were repairable in that the reports were rejected by OATS and notice of such rejection was made available to the firm on the OATS Web site but the firm failed to correct or replace 100 percent of the reports. The findings stated that the firm, failed, within 90 seconds after execution, to transmit through the Automated Confirmation Transaction ServiceSM (ACTSM) last sale reports of transactions in OTC equity securities and failed to designate through ACT such last sale reports as late. The findings also stated that the firm incorrectly designated as .T through ACT last sale reports of transactions in OTC equity securities during normal market hours. NASD also found that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning trade reporting. (NASD Case #CMS040157)

Harris Nesbitt Corp., f/k/a BMO Nesbitt Burns Corp. (CRD #16686, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$125,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it implemented a procedure for investment banking to review research reports, but failed to establish and maintain adequate systems and safeguards to prevent investment bankers from making inappropriate comments regarding research reports. (NASD Case #CAF040074)

International Corresponding Trading, Inc. (CRD #37401, Jersey City, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to submit required information to OATS.

The findings also stated that the firm's supervisory system failed to provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning OATS submissions. (NASD Case #CMS040164)

Miramar Securities, LLC. (CRD #37955, Columbus, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,000, and required to implement within 90 days its written supervisory procedures with respect to the handling of discretionary accounts and retention of all electronic correspondence. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm, through its Web site, stated that they created a premier investment bank and that a corporate finance division was created to provide strategic advice and capital-raising services to its clients when, in fact, the firm was not and had never been an investment bank, and had never been approved for corporate financing and did not have a corporate finance division. The findings also stated that the firm allowed a broker who prepared and distributed research reports for another firm to brokers, investment company personnel, and investors to have discretionary authority for customers who purchased shares in companies on which his other firm released research reports; this broker made transactions in these companies 30 days before and five calendar days after the publication of research reports on the companies. The findings also stated that the firm failed to enforce its written supervisory procedures concerning the handling of discretionary accounts and review of all incoming and outgoing electronic correspondence by a principal. (NASD Case #CAF040080)

Raymond James Financial Services, Inc. (CRD #6694, St. Petersburg, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,500. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to report accurately municipal principal transactions. The findings also stated that the firm failed to adopt, maintain, and enforce supervisory procedures reasonably designed to ensure compliance with Municipal Securities Rulemaking Board (MSRB) rules relating to trade reporting in that it failed, among other things, to properly test municipal trade reports for accuracy. (NASD Case #C07040085)

Scott & Stringfellow, Inc. (CRD #6255, Richmond, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$35,000, required to pay \$595.20, plus interest, in restitution to public customers, and required to revise within 30 business days its written supervisory procedures with respect to applicable securities laws, regulations, and NASD rules concerning timely execution. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, in transactions for or with a public customer, it failed to use reasonable diligence to ascertain

the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. The findings also stated that the firm's supervisory system failed to provide for supervision reasonable designed to achieve compliance with applicable securities laws, regulations, and NASD rules concerning timely execution. (NASD Case #CMS040159)

Sentinel Financial Services Company (CRD #31175, Montpelier, Vermont) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$700,000, and required to certify to NASD that it has determined an appropriate methodology to calculate the monetary amounts necessary to compensate the affected funds for losses attributable to excessive trading and that payment of at least \$659,674 has been made in accordance with this methodology. The firm shall also certify in writing that it has completed its review and that it has established systems and procedures reasonably designed to achieve compliance with NASD rules and federal securities laws and regulations concerning the preservation of electronic mail communications and market timing. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to establish, maintain, and enforce a supervisory system reasonably designed to achieve compliance with mutual fund policies relating to market timing and exchanges. The findings also stated that the firm failed to maintain and preserve, for a period of not less than three years, all internal e-mail communications relating to the firm's business as a broker-dealer. NASD also found that the firm failed to maintain, update, and enforce policies, systems, and procedures to detect and prevent customers circumventing the trading policy, and failed to send notices in a timely manner upon customer engaging in excessive trading. (NASD Case #C11040035)

Tejas Securities Group, Inc. (CRD #36705, Austin, Texas) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT last sale reports of transactions in OTC equity securities and failed to designate through ACT such last sale reports as late. (NASD Case #CMS040155)

Trinix Securities LLC (CRD #103360, Encinitas, California) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it submitted to OATS reports with respect to equity securities traded on The Nasdaq Stock Market, Inc. that were not in the electronic form prescribed by NASD and were repairable in that the reports were

rejected by OATS and notice of such rejection was made available to the firm on the OATS Web site, but the firm failed to correct or replace 90 percent of the reports. (NASD Case #CMS040163)

UBS Financial Services, Inc. (CRD #8174, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$30,000, and required to pay \$2,388.58, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, in connection with transactions for or with a customer reported to the consolidated tape, it failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. The findings also stated that the firm acted as a principal for its own account and provided to its customers written notification or yield information, but failed also to provide written notification disclosing the reported trade price and the difference between the reported trade price and the price to the customer. (NASD Case #CMS040161)

ViewTrade Securities, Inc. (CRD #46987, Boca Raton, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, within 90 seconds after execution, to transmit through ACT last sale reports of transactions in OTC equity securities and failed to designate through ACT such last sale reports as late. The findings also stated that the firm incorrectly designated as ".SLD" through ACT last sale reports of transactions in OTC equity securities reported to ACT within 90 seconds of execution. (NASD Case #CMS040160)

World Group Securities, Inc. (CRD #114473, Duluth, Georgia) submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$15,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that the firm permitted representatives to act in registered capacities while their registrations were inactive due to their failure to satisfy the Regulatory Element of NASD's Continuing Education Requirements. NASD also found that the firm failed to establish and maintain a supervisory system reasonably designed to assure compliance with the Regulatory Element of the Continuing Education Requirement by its registered representatives. (NASD Case #C07040082)

Individuals Barred or Suspended

Sam Amir-Ebrahimi (CRD #1629130, Registered Representative, Los Angeles, California) was fined \$15,000 and suspended from association with any NASD member in any capacity for one year. The fine shall be due and payable when Amir-Ebrahimi seeks to re-enter the securities industry. The sanctions were based on findings that Amir-Ebrahimi failed to execute his customer's sell order and entered into a settlement away from his member firm.

Amir-Ebrahimi's suspension began November 15, 2004, and will conclude at the close of business November 14, 2005. (NASD Case #C02040017)

Robert Paul Aries (CRD #1711053, Registered Representative, Nashua, New Hampshire) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Aries reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Aries consented to the described sanctions and to the entry of findings that he recommended and effected a transaction in the account of a public customer without having a reasonable basis for believing that these transactions were suitable for the customer in light of her financial circumstances and needs.

Aries' suspension began November 15, 2004, and concluded at the close of business December 14, 2004. (NASD Case #C11040036)

Charles Edward Barnett, Jr. (CRD #4752863, Registered Representative, York, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Barnett reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Barnett consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Uniform Application for Securities Industry Registration or Transfer (Form U4).

Barnett's suspension began November 15, 2004, and will conclude May 14, 2005. (NASD Case #C9A040048)

Thomas Anthony Burgio (CRD #3131830, Registered Representative, Depew, New York) was barred from association with any NASD member in any capacity. The sanction was based on findings that Burgio received \$1,000 from a public customer to invest on behalf of her children and instead, deposited the funds into his personal bank account, and converted the funds to his own use and benefit. (NASD Case #C9B040035)

Michael Ray Claiborne (CRD #47211, Registered Principal, Dallas, Texas) submitted an Offer of Settlement in which he was fined \$10,000, suspended from association with any NASD member in any capacity for 20 business days, and barred from association with any NASD member in a principal or supervisory capacity. Without admitting or denying the allegations, Claiborne consented to the described sanctions and to the entry of findings that he manipulated the price of a common stock by setting the price at an artificially high level and engaged in wash trades. The findings stated that Claiborne published or circulated, or caused to be published or circulated: 1) communications that purported to report transactions in a common stock when Claiborne did not believe, or had no reasonable basis to believe, that the transactions were bona fide purchases or sales of the stock; and 2) communications that purported to quote the bid price or ask price of the stock when he did not believe, or had no basis to reasonably believe, that such quotations represented bona fide bids for or offers of the common stock.

NASD also found that Claiborne allowed an unregistered person to have discretionary authority over a proprietary account of his member firm and failed to disclose a material fact on his Form U4. The findings further stated that Claiborne, on behalf of his member firm, failed to establish and maintain a supervisory system reasonably designed to achieve compliance with federal laws, regulations, and NASD rules relating to manipulation of the market for the price of securities, the recommendation and sale of unsuitable securities, appropriate registration of persons associated with the firm, and the duty of registered representatives to notify member firms with whom they have an account of their association with another member.

Claiborne's suspension began November 1, 2004, and concluded at the close of business November 29, 2004. (NASD Case #CMS040048)

Margie Ann Clayton (CRD #4706521, Associated Person, Lehigh Acres, Florida) was barred from association with any NASD member in any capacity. The sanction was based on findings that Clayton failed to respond to NASD requests for information. NASD also found that Clayton failed to disclose material information on her Form U4. (NASD Case #C07040026)

Veronica Cordova (CRD #3043875, Registered Principal, Dallas, Texas) and **Mary Catherine Fitzgerald (CRD #1943079, Registered Representative, Dallas, Texas)** submitted a Letter of Acceptance, Waiver, and Consent in which Cordova was fined \$10,000 and suspended from association with any NASD member in any principal or supervisory capacity for 20 business days. Fitzgerald was fined \$61,779, which includes disgorgement of commissions totaling \$51,779, and

suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Fitzgerald recommended and effected unsuitable B share transactions in the accounts of public customers. The findings also stated that Fitzgerald's recommendations were unsuitable for the customers in light of the dollar amounts being invested. NASD found that had Fitzgerald recommended Class A shares, customers could have been eligible to receive breakpoints on Class A share purchases, avoided or minimized up-front sales charges, paid lower 12b-1 fees throughout the duration of their investments, and avoided being subject to contingent deferred sales charges. In addition, NASD determined that Cordova failed to reasonably supervise Fitzgerald's trading activity in connection with Fitzgerald's recommendations to public customers

Cordova's suspension began November 15, 2004, and concluded at the close of business December 13, 2004. Fitzgerald's suspension began November 15, 2004, and will conclude at the close of business December 28, 2004. (NASD Case #C06040031)

Michael Lawrence Dotton (CRD #2252099, Registered Representative, Buffalo, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before Dotton reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Dotton consented to the described sanctions and to the entry of findings that he signed the name of a public customer on documents without the customer's knowledge or authorization.

Dotton's suspension began December 6, 2004, and will conclude at the close of business February 3, 2005. (NASD Case #C9B040096)

Charles Robert Eckardt, Jr. (CRD #1071397, Registered Representative, Ambler, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before Eckardt reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Eckardt consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4.

Eckardt's suspension began November 15, 2004, and will conclude at the close of business February 14, 2005. (NASD Case #C9A040045)

Robert Shawn Ellison (CRD #2807005, Registered Representative, Panama Beach, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Ellison reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ellison consented to the described sanctions and to the entry of findings that he exercised discretionary transactions in the accounts of public customers without prior written acceptance of the accounts as discretionary by his member firm.

Ellison's suspension began November 15, 2004, and will conclude at the close of business December 28, 2004. (NASD Case #C05040074)

Wendy Lynn Epps (CRD #2712735, Registered Principal, Lake Mary, Florida) submitted an Offer of Settlement in which she was fined \$1,000 and suspended from association with any NASD member in a registered securities principal capacity for 30 days. Without admitting or denying the allegations, Epps consented to the described sanctions and to the entry of findings that, after her member firm's books and records were inconsistent with the information reported by the firm to ACT for certain orders, she participated in the modifications to the firm's books and records and did not maintain an appropriate record of the original data.

Epps' suspension began November 15, 2004, and concluded at the close of business December 14, 2004. (NASD Case #CMS040018)

John Ettere (CRD #2580761, Registered Representative, Mahopac, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before Ettere reassociates with any NASD member or before requesting relief from any statutory disqualification. In addition, Ettere shall not be supervised by any individual who has previously been associated with a disciplined firm as defined in NASD Conduct Rule 3010(b)(2)(I). Further, for a one-year period after Ettere becomes registered with a member firm, he shall be subject to special supervision including, but not limited to, the monitoring of his sales presentations on at least a monthly basis. Without admitting or denying the allegations, Ettere consented to the described sanctions and to the entry of findings that he used high-pressure sales tactics and knowingly made numerous baseless predictions of substantial price increases and material misrepresentations of fact in connection with solicitation of customers and prospective customers to purchase equity securities.

Ettere's suspension began October 25, 2004, and will conclude at the close of business December 23, 2004. (NASD Case #C07040081)

Gregory Leonard Felden (CRD #1100966, Registered Principal, Clearwater, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 days. The fine must be paid before Felden reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Felden consented to the described sanctions and to the entry of findings that he engaged in a private securities transaction and failed to provide written notice to, or receive approval from, his member firm to effect such a transaction.

Felden's suspension began November 15, 2004, and concluded at the close of business December 15, 2004. (NASD Case #C11040037)

Lee Andrew Finkelstein (CRD #1257756, Registered Principal, Merion Station, Pennsylvania) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Finkelstein consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information and failed to appear for an on-the-record interview. (NASD Case #C9A040049)

Michael Taradash Garbo (CRD #3026091, Registered Representative, Secaucus, New Jersey) was barred from association with any NASD member in any capacity. The sanction was based on findings that Garbo, in connection with a joint account opened by public customers at his member firm, submitted a margin agreement, purportedly signed by the customers, and a margin account was established. However, Garbo forged the signatures of the customers without their permission or authority. NASD also found that Garbo failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C9B040064)

Jill Ann Gauci (CRD #2913274, Registered Representative, Franklin, Tennessee) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Gauci consented to the described sanction and to the entry of findings that she made improper use of funds belonging to a public customer of her member firm's bank affiliate. NASD found that Gauci completed a debit advice totaling \$320 to issue funds from the customer's bank checking account, then converted the funds for her own use and benefit by processing the debit advice and receiving cash without the knowledge or consent of her member firm's bank affiliate. (NASD Case #C05040071)

Michael Joseph Gorman, Jr. (CRD #1905282, Registered Principal, Short Hills, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any principal or supervisory capacity for 15 business days. Without admitting or denying the allegations, Gorman consented to the described sanctions and to the entry of findings that he failed to supervise an employee who engaged in outside business activities and failed to ensure that the representative provided prompt written notification of these activities to his member firm.

Gorman's suspension began November 1, 2004, and concluded at the close of business November 19, 2004. (NASD Case #C9B040091)

Robert John Grubert (CRD #2817608, Registered Principal, New York, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for five business days. Without admitting or denying the allegations, Grubert consented to the described sanctions and to the entry of findings that he engaged in activities requiring a general securities principal registration without being so registered.

Grubert's suspension began November 15, 2004, and concluded November 19, 2004. (NASD Case #CM5040166)

Thomas William Hannon (CRD #841865, Registered Principal, Whitestone, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hannon consented to the described sanctions and to the entry of findings that he executed, or caused to be executed, short sales in his firm's proprietary trading accounts without the firm's prior knowledge, authorization, or consent. The findings also stated that Hannon failed to respond to questions during an NASD on-the-record interview. (NASD Case #C10040103)

Carl Bentley Hays (CRD #1886740, Associated Person, Apex, North Carolina) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Hays consented to the described sanction and to the entry of findings that he failed to disclose material information on his Form U4. (NASD Case #C04040050)

Justin Wallace Herman (CRD #2669867, Registered Representative, Sheridan, Wyoming) submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 12 months and ordered to pay \$100,000, plus interest, in restitution to public customers. Satisfactory proof of payment of restitution

must be made before Herman reassociates with any NASD member. In light of the financial status of Herman, no fine has been imposed.

Without admitting or denying the allegations Herman consented to the described sanctions and to the entry of findings that he established securities accounts with an NASD member, but failed to promptly advise the member firm that he became associated with another NASD member firm. NASD also found that Herman participated in a private securities transaction through the sale of \$293,000 in equity securities to investors without giving his member firm prior written notice of his intent to engage in such transactions and without receiving approval for his participation in these transactions. In addition, NASD determined that Herman drew a check from a customer account of a family member that was made payable to another family member and caused the check to be deposited in the second family member's bank account without the knowledge or authorization of the customer (first family member).

Herman's suspension began November 15, 2004, and will conclude at the close of business November 14, 2005. (NASD Case #C07040083)

Hugh Robert Hunsinger, Jr. (CRD #2179745, Registered Representative, PineBrook, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Hunsinger consented to the described sanctions and to the entry of findings that he ordered and used business stationery containing professional designations he did not possess.

Hunsinger's suspension began November 15, 2004, and will conclude at the close of business December 28, 2004. (NASD Case #C9B040094)

Donald Everett Hunt, Jr. (CRD #1342388, Registered Principal, Spring, Texas) was fined \$10,000 and suspended from association with any NASD member in any capacity for three months. The sanction was based on findings that Hunt participated in private securities transactions with public customers of his member firm without first providing written notice to his member firm describing the transactions, his role in the transactions, and disclosing if he would receive any selling compensation.

Hunt's suspension began November 15, 2004, and will conclude at the close of business February 14, 2005. (NASD Case #C06040018)

Thomas Brown Ireland (CRD# 255216, Registered Principal, Sault Ste. Marie, Michigan) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any

capacity for three months. Without admitting or denying the allegations Ireland consented to the described sanctions and to the entry of findings that he attempted to enter into a settlement agreement with public customers by signing and issuing a promissory note without his member firm's knowledge or consent.

Ireland's suspension began December 6, 2004, and will conclude March 5, 2005. **(NASD Case #C8A040096)**

Gregory Martin Jensen (CRD #2093554, Registered Supervisor, Redmond, Washington) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six weeks. The fine must be paid before Jensen reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Jensen consented to the described sanctions and to the entry of findings that, in connection with an arbitration proceeding filed by a public customer against him, Jensen altered his handwritten notes to remove a personal comment he had made about the customer, subsequently provided the altered notes to his member firm during discovery in the arbitration, and failed to notify his firm that the notes had been altered until a later time.

Jensen's suspension began November 1, 2004, and concluded December 12, 2004. **(NASD Case #CAF040076)**

Robert Crandall Jones (CRD #4600966, Registered Representative, Smithville, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. The fine must be paid before Jones reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Jones consented to the described sanctions and to the entry of findings that he provided income tax preparation services to public customers for a fee outside of the scope of his relationship with his member firm. NASD also found that Jones failed to provide prompt written notice of this outside business activity to his member firms.

Jones' suspension began November 15, 2004, and concluded at the close of business November 29, 2004. **(NASD Case #C04040048)**

Robert Dixon Jones (CRD #4582742, Associated Person, Minneapolis, Minnesota) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Jones consented to the described sanction and to the entry of findings that he affixed the signatures of public customers to life insurance renewal forms without the knowledge, authorization, or consent of the customers. **(NASD Case #C04040051)**

Thomas Victor Kozlowski (CRD #1842334, Registered Representative, Fargo, North Dakota) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Kozlowski reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kozlowski consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U4.

Kozlowski's suspension began November 15, 2004, and will conclude at the close of business November 14, 2006. **(NASD Case #C04040052)**

Kenneth Daniel Krassinger, Jr. (CRD #1982792, Registered Representative, Byrnes Mill, Missouri) was barred from association with any NASD member in any capacity. The sanction was based on findings that Krassinger misused a public customer funds totaling \$50,000 intended for investment purposes without the knowledge or consent of the customer. **(NASD Case #C04040004)**

Deborah Lyn Lenart (CRD #2930698, Registered Representative, Los Alamitos, California) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Lenart consented to the described sanction and to the entry of findings that she used fraudulent and deceptive means to cause a public customer to write personal checks to her totaling \$50,109. NASD determined that Lenart used the funds for her own personal benefit. **(NASD Case #C02040038)**

Leonard Nicholas Lucarello (CRD #1908238, Registered Representative, N. Babylon, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Lucarello consented to the described sanction and to the entry of findings that he willfully misrepresented and failed to disclose material facts on his Forms U4. **(NASD Case #CLI040029)**

Makhosini Bruce Mabhena (CRD #4638149, Associated Person, San Francisco, California) was barred from association with any NASD member in any capacity. The sanction was based on findings that Mabhena failed to disclose material information on his Form U4. The findings also stated that he failed to respond to NASD requests for information. **(NASD Case #C01040016)**

Maribeth Clark McGinty (CRD #4260567, Registered Representative, Boulder City, Nevada) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$7,500 and suspended from association with any NASD member in any capacity for three months. The fine must be paid before McGinty

reassociates with any NASD member or before requesting relief from statutory disqualification. Without admitting or denying the allegations, McGinty consented to the described sanctions and to the entry of findings that she affixed the signature of a public customer in the form of the customer's initials to a Client Account Record Form and a 529 Plan New Account Application without the consent or knowledge of the customer.

McGinty's suspension began November 15, 2004, and will conclude at the close of business February 14, 2005. (NASD Case #C02040039)

Raj Indrajit Mehta (CRD #2071197, Registered Representative, Staten Island, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Mehta consented to the described sanction and to the entry of findings that he falsified records and documents to willfully misrepresent the current value of positions maintained in the proprietary trading portfolio of his member firm and fabricated records and documents related to the positions maintained in the portfolio to prevent detection of the misrepresented positions valuations. (NASD Case #C10040105)

Robert Mendoza (CRD #3142893, Registered Representative, Reno, Nevada) and Gary Steven Wood (CRD #1787434, Registered Principal, Crystal Bay, Nevada) submitted an Offer of Settlement in which they were barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Mendoza and Wood consented to the described sanction and to the entry of findings that they participated in securities transactions outside the regular scope of their association with their member firms. The findings also stated that Mendoza and Wood did not provide written notice to nor receive written permission from their member firms to participate in these transactions. NASD also determined that Mendoza participated in collecting approximately \$2.8 million from investors and received more than \$150,000 in compensation therefrom; and Wood participated in collecting approximate \$9.7 million from investors and received more than \$1.1 million in compensation therefrom. (NASD Case #C01040022)

Cory Andrew Mongno (CRD #2648751, Registered Representative, Bridgewater, New Jersey) submitted an Offer or Settlement in which he was suspended from association with any NASD member in any capacity for six months and ordered to pay \$22,500 in restitution to a public customer. Restitution must be paid before Mongno reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Mongno consented to the described sanctions and to the entry of findings that he engaged in a pattern of

unsuitable mutual fund switches for profit in the accounts of a public customer. The findings also stated that Mongno recommended the transactions without having reasonable grounds for believing that such transactions were suitable for the customer in view of the frequency of the transactions, the type of investments being recommended, and the customer's financial situation and investment objectives.

Mongno's suspension began November 1, 2004, and will conclude April 30, 2005. (NASD Case #C9B040020)

William Robert Montes (CRD #1576939, Registered Representative, Rochester, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Montes consented to the described sanction and to the entry of findings that he recommended to public customers that they over-concentrate their investment assets in a speculative mutual fund without having reasonable grounds for believing that the recommendations were suitable for the customers in light of their financial situations, investment objectives, and financial needs. The findings also stated that Montes failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C9B040095)

Neal Moskowitz (CRD #1111012, Registered Representative, Parkland, Florida) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Moskowitz reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Moskowitz consented to the described sanctions and to the entry of findings that, while registered with a member firm, he failed to disclose his association to other member firms with whom he maintained securities accounts in which he had a financial interest or for whom he had discretionary authority, and failed to disclose to his member firm that he maintained securities accounts at other member firms. The findings also stated that Moskowitz, while acting as an investment banker at a firm and while registered with a broker-dealer, purchased securities from an investment firm through an account he maintained at another firm and failed to disclose the transactions to his member firm. In addition, NASD found that Moskowitz failed to notify member firms with which he maintained securities accounts and in which he had a financial interest, or for which he had discretionary authority, that he was associated with other member firms.

Moskowitz's suspension began December 6, 2004, and will conclude at the close of business December 5, 2005. (NASD Case #CMS040171)

Jeffrey Patrick Murphy (CRD #2316701, Registered Representative, Oregon, Wisconsin) was barred from association with any NASD member in any capacity. The sanction was based on findings that Murphy acquired a public customer's signature on Withdrawal/Surrender forms without explaining the ramifications to the customer, had the form notarized, and sent the form to an insurance company, and that he failed to respond to NASD requests for documents and information. NASD also found that Murphy received checks totaling \$350,000 from a customer's annuity account and procured the customer's endorsement on the checks without explaining the ramifications to the customer. In addition, the findings stated that Murphy deposited the checks into his personal bank account without the knowledge or consent of the customer and used the proceeds from the checks for his own use and benefit or for some purpose other than the benefit of the customer. (NASD Case #C8A040001)

Babatunde Emmanuel Olubode (CRD #4378245, Registered Representative, Des Moines, Iowa) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Olubode reassociates with any NASD member or before requesting relief from statutory disqualification. Without admitting or denying the allegations, Olubode consented to the described sanctions and to the entry of findings that he failed to disclose material information on his Form U4. The findings also stated that Olubode failed to respond timely to NASD requests to appear for an on-the-record interview.

Olubode's suspension began November 15, 2004, and will conclude May 14, 2005. (NASD Case #C04040049)

Barbara Newman O'Shields aka Barbara Newman Leslie aka Barbara Newman (CRD #1031974, Registered Principal, Lexington, Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which she was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, O'Shields consented to the described sanctions and to the entry of findings that she signed the names of public customers on non-solicitation letters required by her member firm in connection with sales of low-priced securities without the customers' prior knowledge.

O'Shields' suspension began November 15, 2004, and concluded at the close of business November 29, 2004. (NASD Case #C07040087)

Kenneth Christopher Pierson (CRD #2344998, Registered Representative, Lafayette, New Jersey) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 60 days. The fine must be paid before Pierson

reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Pierson consented to the described sanctions and to the entry of findings that he signed a public customer's name on a 401(k) rollover form without the permission or knowledge of the customer.

Pierson's suspension began November 1, 2004, and will conclude at the close of business December 30, 2004. (NASD Case #C9B040090)

Aurangzeb Rashid Pirzada (CRD #868883, Registered Principal, Lookwood, California) was fined \$50,000 and barred from association with any NASD member in any capacity. The fine must be paid before Pirzada requests relief from any statutory disqualification. In addition, Pirzada is ordered to pay \$76,265.02, plus interest, in restitution to a public customer. The sanction was based on findings that Pirzada willfully failed to amend his Form U4 to disclose a material fact. NASD also found that Pirzada, in connection with the sales of securities in a public customer's 401(k) and Individual Retirement Account (IRA) accounts, utilized the instrumentalities of interstate commerce to engage in a device, scheme, and artifice to defraud in that he represented to a public customer that he would manage her funds in a new IRA account, but instead used the funds to make a clearing deposit for his member firm and to pay his own personal expenses. In addition, NASD determined that, in connection with the sale of securities to a public customer, Pirzada failed to disclose material facts to the customer. (NASD Case #C01020027)

Ryan Garrett Robinson (CRD #2682661, Registered Representative, Northridge, California) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for 15 business days. Without admitting or denying the allegations, Robinson consented to the described sanctions and to the entry of findings that he recommended the purchase of mutual fund "C" shares in the accounts of public customers without having a reasonable basis for believing these transactions were suitable for the customers; further, the recommendations were unsuitable because the customers' accounts were economically disadvantaged by the costs associated with the purchase of "C" shares relative to the costs they would have incurred by purchasing "A" shares of the same mutual funds.

Robinson's suspension began December 6, 2004, and will conclude at the close of business December 27, 2004. (NASD Case #C02040041)

Alex Roytman (CRD #2798166, Registered Representative, Brooklyn, New York) submitted an Offer of Settlement in which he was fined \$25,000 and suspended from association with any NASD member in any capacity for two years. The fine

must be paid before Roytman reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Roytman consented to the described sanctions and to the entry of findings that he participated in private securities transactions and failed to provide accurate and adequate written notice to his member firm describing in detail the proposed transactions and his role therein. The findings also stated that Roytman failed to provide truthful and accurate information to NASD during an on-the-record interview and failed to disclose a material fact on his Form U4.

Roytman's suspension began December 6, 2004, and will conclude at the close of business December 5, 2006. (NASD Case #C10040087)

Gary Philip Ruchwarger (CRD #3103556, Registered Representative, Lafayette, Colorado) submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity and ordered to pay \$38,375, plus interest, in restitution to public customers. Satisfactory proof of payment of restitution must be made before Ruchwarger reassociates with any NASD member. Without admitting or denying the allegations Ruchwarger consented to the described sanctions and to the entry of findings that he engaged in an outside business activity without providing prompt written notice to his member firm. NASD also found that Ruchwarger received \$38,375 from public customers of his member firm and used the funds for his own personal benefit. (NASD Case #C3A040042)

Marty Derwin Simpson (CRD #2631722, Registered Representative, Stuttgart, Arkansas) was barred from association with any NASD member in any capacity. The sanction was based on findings that Simpson received a check totaling \$15,272.64 from a public customer for the purchase of a deferred variable annuity and that he failed to respond to NASD requests for information. NASD found that Simpson deposited the check into his personal checking account, neglected to purchase a deferred variable annuity for the account of the customer, and converted the funds to his own use and benefit. (NASD Case #C05040037)

Jeannita Ann Stasyszen (CRD #4163913, Registered Representative, Meeker, Oklahoma) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Stasyszen consented to the described sanction and to the entry of findings that she caused checks totaling \$29,562.78 to issue from her insurance premium escrow account maintained with an insurance company. The findings also stated that Stasyszen converted the funds to her own use and benefit by endorsing and depositing the checks into a personal account under her control without the knowledge consent of either the insurance company or her member firm. (NASD Case #C05040070)

Joseph James Vastano, Jr. (CRD #1623074, Registered Representative, Solana Beach, California) was fined \$62,000 and suspended from association with any NASD member in any capacity for 18 months. The SEC imposed the sanction following appeal of a NAC decision. The sanctions were based on findings that Vastano engaged in private securities transactions without providing prior written notice to, or receiving prior written approval from, his member firm.

Vastano's suspension began November 1, 2004, and will conclude April 30, 2006. (NASD Case #C3A020013)

Glenn William Ward (CRD #2041881, Registered Representative, Tulsa, Oklahoma) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$6,000, including disgorgement of \$1,000 in commissions, and suspended from association with any NASD member in any capacity for 30 business days. The fine must be paid before Ward reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Ward consented to the described sanctions and to the entry of findings that he recommended and effected the purchase of a variable annuity by a public customer totaling \$50,000 without having reasonable grounds for believing that the recommendation and transactions were suitable for the customer based on the customer's financial situation and needs.

Ward's suspension began November 15, 2004, and will conclude at the close of business December 28, 2004. (NASD Case #C05040075)

Timothy Booth Watkins (CRD #1036169, Registered Representative, St. Louis, Missouri) submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$7,500 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Watkins reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Watkins consented to the described sanctions and to the entry of findings that he sold fixed annuities outside of the scope of his relationship with his member firm and received \$154,887 in commissions from these sales without providing prompt written notice to his member firm of the sales and commissions.

Watkins' suspension began November 1, 2004, and will conclude April 30, 2005. (NASD Case #C04040046)

Michelle Dawn Work (CRD #4254450, Registered Representative, Fairmont, West Virginia) submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Work consented to the described sanction and to the entry of findings that she effected transactions totaling \$149,000 in the accounts of public

customers. NASD determined that Work fraudulently obtained possession of the funds and then converted the funds for her own use and benefit without the customers' knowledge or authorization. (NASD Case #C9A040047)

James William Fuller (CRD #1000509, Registered Principal, San Francisco, California) submitted an Offer of Settlement in which he was censured and fined \$20,000. Without admitting or denying the allegations, Fuller consented to the described sanctions and to the entry of findings that, on behalf of his member firm, he failed to establish and maintain a supervisory system reasonably designed to achieve compliance with federal securities laws regarding the receipt of restricted or controlled stock and the sale of unregistered securities. The findings also stated that Fuller, on behalf of his member firm, failed to supervise adequately the activities of an employee in contravention of the requirement under NASD Conduct Rule 3040. (NASD Case #CAF040020)

Brent David Hurt (CRD #1976536, Registered Principal, Chicago, Illinois) submitted a Letter of Acceptance, Waiver and Consent in which he was censured and fined \$10,000. Without admitting or denying the allegations, he consented to the described sanctions and to the entry of findings that Hurt, acting on behalf of a member firm, rendered false and misleading representations that the purchasers' funds would be held in an escrow account and would not be released to the Limited Liability Corporation until all Membership Interest (MI) was sold. The findings also stated that Hurt, acting on behalf of a member firm, failed to escrow properly purchasers' funds while the MIs were being sold and improperly forwarded funds to the Limited Liability Corporation prior to sale of all MIs and collection of all Reservation Deposits. (NASD Case #C8A040095)

Jeffrey Mark Winik (CRD #1246434, Registered Supervisor, Roslyn Hills, New York) submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and fined \$15,000. Without admitting or denying the allegations, Winik consented to the described sanctions and to the entry of findings that he sold shares of a new issue that traded at a premium in the immediate aftermarket to a restricted person. NASD also determined that Winik knew that the restricted person had a financial interest in an existing account at his member firm and failed to notify the restricted person's member firm in writing prior to the execution of further transactions in the account or of the restricted person's intent to maintain the account. (NASD Case #C05040077)

Decision Issued

The District Business Conduct Committee (DBCC) or the OHO have issued the following decision and it has been appealed to or called for review by the NAC as of November 5, 2004. The findings and sanctions imposed in the decision may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notice to Members*.

Gilbert Alan Cardillo (CRD #1110960, Registered Principal, Riverhead, New York) was fined \$6,600, suspended from association with any NASD member in any capacity for 10 business days, and ordered to offer to pay a public customer, upon the customer's surrender of his annuity, the difference, if any, between the amount the customer received upon surrender of the annuity and \$80,000, plus interest. The sanctions were based on findings that Cardillo made a recommendation to a public customer without reasonable grounds for believing the transaction was suitable for the customer based on the customer's financial situation and needs.

Cardillo has appealed this action to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C10030087)

Complaints Filed

NASD issued the following complaints. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are adjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

Cardinal Capital Management, Inc. (CRD #24605, Miami, Florida) was named as a respondent in an NASD complaint alleging that the firm sold shares of a penny stock to public customers and failed to obtain and preserve a penny stock risk disclosure document receipt from customers for the transactions. The complaint also alleges that the firm failed to make or obtain copies of written suitability determinations signed by customers or written purchase agreements for purchase transactions, and that the firm failed to make and preserve new account forms and order tickets for purchase transactions. In addition, the complaint alleges that the firm failed to establish, maintain, and enforce a supervisory system reasonable designed to achieve compliance with industry rules and regulations, including penny stock rules. Furthermore, the complaint alleges that the firm's supervisory system failed to establish processes by which supervisors would ensure the firm was complying with the penny stock rules. (NASD Case #C07040090)

Neal Ryan Clemens (CRD #3257789, Registered Representative, Milwaukee, Wisconsin) was named as a respondent in an NASD complaint alleging that he effected transactions in the accounts of a public customer without prior written authorization from the customer and prior written acceptance of the accounts as discretionary by his member firm. (NASD Case #C8A040093)

Dave Augustus Green (CRD #2787039, Registered Principal, Coral Springs, Florida) was named as a respondent in an NASD complaint alleging that he effected transactions in the accounts of public customers without the customers' prior authorization. (NASD Case #C07040084)

Jimmie Lee Griffith (CRD #2321620, Registered Representative, Richmond, California) was named as a respondent in an NASD complaint alleging that he effected purchases and sales of mutual funds in the account of public customers without the knowledge or consent of the customers. (NASD Case #C01040025)

Mitchell Hersh (CRD #874733, Registered Representative, Staten Island, New York) was named as a respondent in an NASD complaint alleging that he knowingly misrepresented, and/or caused to be misrepresented, the addresses of certain public customers of the firm in order to sell them variable annuity contracts not otherwise available to them. The complaint also alleges that such falsifications were made in furtherance of Hersh's improper sale of the annuities contracts to the customers, as the annuities were not approved for sale in the states where the customers actually resided. (NASD Case #C10040101)

Paul Joseph Leahy (CRD #2581030, Registered Representative, Staten Island, New York) was named as a respondent in an NASD complaint alleging that he effected, or caused to be effected, numerous and excessive transactions in the account of a public customer without having reasonable grounds for believing that such transactions were suitable for the customer in view of the size and frequency of the transactions, the nature of the account, and the customer's financial situation, investment objectives, and needs. The complaint also alleges that Leahy failed to respond to NASD requests for documents and information. (NASD Case #C9B040092)

Dennis Roy Roth (CRD #1418538, Registered Principal, McLean, Virginia) was named as a respondent in an NASD complaint alleging that he issued a fraudulently misleading research report and press release relating to a company that contained baseless sales projections, a forecast of profitability in the near future, a claim that the company could be listed on NASDAQ or the American Stock Exchange within a year, and a

prediction that the company's stock price could increase by over 400 percent within the next 12 months. The complaint also alleges that, at the time the report was published, Roth knew, or was reckless in not knowing, that the company had few or no firm customer orders in place to support his optimistic sales projections and as a result had no reasonable basis under the circumstances to assume that the company had the ability to obtain sufficient customer orders, manufacture the product, or ship and record the necessary sales to meet the year-end projections or any subsequent year. The complaint further alleges that Roth's research report and press release failed to provide a balanced treatment of risks and benefits associated with an investment in the company. In addition, the complaint alleges that Roth failed to disclose compensation agreement with the issuer. (NASD Case #CMS040016)

Kevin Mark Weaver (CRD #2845934, Registered Principal, Edwards, Colorado) was named as a respondent in an NASD complaint alleging that he participated in the fraudulent sale of securities in the form of limited partnership interests. The complaint also alleges that Weaver omitted to state material facts in connection with his offers and sales of securities and failed to disclose that the limited partnership would engage in an electronic day-trading investment strategy or the risks associated with electronic day trading. The complaint also alleges that Weaver failed to disclose to investors that he would personally be directing the trading in the limited partnership account and that he had no prior day-trading experience. The complaint further alleges that the Private Placement Memorandum (PPM) misrepresented the use of investment funds raised in connection with the offerings. In addition, the complaint alleges that the PPM contained a section entitled "Use of Proceeds," which states that a maximum of 12.5 percent of the offering proceeds can be paid to the general partner and syndicator for selling commissions and due diligence expenses. Based on the amount raised in the offering, a maximum of \$69,625 should have been taken out in expenses. However, the financial records of the Limited Partnership revealed that Weaver caused a total of \$138,642.37 to be paid to the general partner and syndicator for expenses. Additionally, the complaint alleges that Weaver caused \$41,750 to be transferred to himself for an unknown purpose. (NASD Case #C06040034)

Firm Expelled for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320

Lloyd, Scott & Valenti
Ltd. Austin, Texas
(October 26, 2004)

Individual Suspended Pursuant to NASD Rule 9552 for Failure to Provide Information Requested under NASD Rule 8210

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Jao, Hsing L.
Flushing, New York
(November 3, 2004)

Individual Revoked for Failing to Pay Fines and/or Costs in Accordance with NASD Rule 8320

Salice, Philip
Bayshore, New York
(October 26, 2004)

Individuals Suspended Pursuant to NASD Rule Series 9510 for Failure to Comply With an Arbitration Award or a Settlement Agreement

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

Adair, Richard C.
Las Vegas, Nevada
(November 10, 2004)

Flynn, Patrick J.
Encinitas, California
(November 11, 2004)

Scaramuzzini, Pasquale Jr.
Staten Island, New York
(November 11, 2004)

NASD Fines Citigroup Global Markets \$275,000, Orders Restitution Relating To Managed Futures Sales

Unsuitable Recommendations, Failed Record Keeping, Inadequate Risk Disclosure Cited

NASD censured and fined Citigroup Global Markets, Inc. \$275,000 for a series of violations relating to its sales of two proprietary managed futures funds—Citigroup Diversified Futures Fund L.P. and Salomon Smith Barney Diversified 2000 Futures Fund L.P. Those funds, which invest in commodities including futures, options on futures and forward contracts, are speculative investments that carry a high degree of risk.

Citigroup's violations include making unsuitable recommendations of the funds to 45 customers, failing to maintain required suitability records on its sales to over 8,200 investors in the funds, and failing to adequately disclose in Web site advertising the risks of investing in managed futures.

In addition to the fine, NASD also ordered the firm to offer restitution to the 45 customers to whom the firm made unsuitable recommendations. Those customers invested a total of \$203,000 in the futures funds, in individual investments ranging from \$2,000 to \$20,000.

"Managed futures are complicated and risky investment products that are unsuitable for many investors," said NASD Vice Chairman Mary L. Schapiro. "Commodity trading is speculative. It is volatile. It involves a high degree of leverage. It is typically not well understood by average retail investors. So it is crucial that firms meet their suitability and disclosure obligations when selling these products."

From January 2002 to November 2003, Citigroup marketed and sold the two proprietary managed futures products to over 8,200 investors, raising approximately \$199 million. The funds have relatively high fees, with total sales and management fees ranging from 8.10 percent to 10.75 percent.

While NASD does not have jurisdiction over commodities, these funds were structured as limited partnerships and investors purchased units in a direct participation program (DPP), which is a securities product sold by brokers under NASD's jurisdiction. These units are relatively illiquid and there is no trading market for them, although investors can redeem their units once a month or at the discretion of the fund.

The prospectuses for the futures funds established minimum net worth and income requirements designed to ensure that only suitable customers purchased the funds. The prospectuses required each investor to have a net worth of at least \$150,000, or a minimum net worth of \$45,000 combined with an annual income of at least \$45,000. In addition, some states require that sales of the futures funds be limited to investors who meet more restrictive net worth and annual income requirements.

NASD found that Citigroup sold the funds to 45 customers who did not meet the minimum net worth and income requirements. For example, one customer had just lost her job and her futures fund investment of \$4,000 represented a rollover from her Individual Retirement Account. The customer's income was zero and her net worth was \$25,000. NASD found that the firm's unsuitable recommendations and sales occurred across 29 branch offices.

Because of the inherent risks of investing in DPPs, NASD rules require firms to maintain documents for each DPP customer disclosing the basis for determining that the investment was suitable. NASD found that the firm failed to maintain those records, and failed to establish and maintain a supervisory system and written procedures designed to ensure that suitability requirements were met.

Although Citigroup maintained a database of its customers that showed holdings in Citigroup brokerage accounts, investment objectives, net worth, income, and age, it could not be determined whether each broker reviewed that information and made suitability assessments based on that information. NASD found that Citigroup did not require its brokers to update the database and that the database was not consistently updated at the time of the sale of the futures funds.

Finally, NASD found that Citigroup posted an advertisement on its Web site that described managed futures products generally, but that failed to adequately disclose and describe the substantial risks of investing in these products, including that an investor could lose all of his/her investment; that an investor's ability to redeem units is limited and that no market exists for the units; and that managed futures funds' high fees and expenses may completely offset any profits or gains.

In settling with NASD, Citigroup neither admitted nor denied the allegations, but consented to the entry of NASD's findings.

NASD Fines Morgan Stanley \$100,000 for Municipal Bond Disclosure Violations

Over \$200,000 in Restitution Paid, Offer to Repurchase Bonds Required; Firm Fined Additional \$25,000 for Slow Response to Investigators' Inquiries

NASD sanctioned Morgan Stanley DW Inc. for failing to disclose to purchasers of municipal bonds that those bonds could be called prior their stated maturity dates, which could result in losses to the investors. Morgan Stanley's failure to disclose the call feature violates Municipal Securities Rulemaking Board (MSRB) Rule G-15.

NASD censured the firm, imposed a fine of \$100,000, and required the firm to offer to buy back bonds sold in up to 171 separate municipal bond transactions. Morgan Stanley has paid approximately \$211,510 in restitution to customers since the NASD investigation began.

Early in NASD's investigation into this matter, Morgan Stanley failed to respond in a timely way to requests for information, resulting in a second disciplinary action that included a censure and a \$25,000 fine.

"Municipal bond investors are entitled to receive all critical information about the bonds they are purchasing, especially call features which can impact the total return the investor expects," said NASD Vice Chairman Mary L. Schapiro. "As a result of today's enforcement action, those investors who were or who may be harmed by Morgan Stanley's violations will be compensated."

MSRB Rules require broker-dealers who sell bonds that can be redeemed, or "called," prior to maturity to provide the investor with a written disclosure, typically in the written purchase confirmation. NASD found that from 1997 through 2002, Morgan Stanley failed to disclose the existence of the call feature in confirmations for 258 municipal bond purchase transactions involving 133 escrowed-to-maturity bond issues.

Several bonds matured as scheduled without being called, resulting in no loss to investors. Other bonds were called before their stated maturity, resulting in the firm's payment of restitution to customers for losses from these early redemptions. Still other bonds have not yet matured and have not been called. Morgan Stanley will advise those purchasers of the call feature and offer to these investors the opportunity to sell the bonds back to the firm.

In agreeing to these sanctions, Morgan Stanley neither admitted nor denied the allegations.

NASD Fines 29 Firms over \$9.2 Million for Late Reporting

Failures Stall Disclosure of Potential Broker Misconduct to Public, Regulators, Brokerages

NASD censured and fined 29 securities firms over \$9.2 million for more than 8,000 late disclosures of reportable information about their brokers, including customer complaints, regulatory actions, and criminal charges and convictions.

NASD also prohibited two firms—Merrill Lynch and Wachovia—from registering new brokers for five business days, in view of the number of their reporting violations in this case and their previous regulatory filing histories. NASD imposed a similar prohibition and a \$2.2 million fine against Morgan Stanley in July for late reporting violations.

Under NASD rules, after a securities firm hires a broker, it must ensure that information on the broker's application for registration (Form U4) is kept current in NASD's Central Registration Depository (CRD). The firm must update that information whenever significant events occur, including regulatory actions against the broker, customer complaints, settlements involving the broker, and criminal charges and convictions. Normally, those updates must be filed within 30

days. If the reportable event involves a statutory disqualification (usually the result of a criminal conviction), the event must be disclosed within 10 days. In addition, firms must notify NASD within 30 days of learning that information disclosed on a termination notice (Form U5) filed for a broker has become inaccurate or incomplete.

Information maintained in CRD on all of the more than 665,000 registered brokers and the nearly 5,300 registered firms is available not only to regulators and law enforcement officials, but also to the public through NASD's BrokerCheck. Last year, more than 2.8 million investors investigated brokers' backgrounds through BrokerCheck.

"Investors, regulators, and others rely heavily on the integrity of the information in the CRD public reporting system—and, in turn, the integrity of that system depends on accurate and prompt reporting by firms," said NASD Vice Chairman Mary L. Schapiro. "The fact that so many firms failed in their obligation to report so much important information in a timely way is deeply troubling. These firms and others will understand from

the severity of the fines and other sanctions in this case that timely reporting of broker information is a fundamental obligation that cannot be neglected or ignored."

During the period January 2002 through March 2004, each of the 29 firms failed to timely report at least 25 percent of the required disclosures in the areas reviewed by NASD, and some firms failed to timely report over 70 percent. NASD also found that each firm failed to have supervisory systems and procedures in place reasonably designed to achieve compliance with these reporting requirements.

To resolve these actions, each firm agreed to conduct internal audits to evaluate the effectiveness of its system for ensuring compliance with these reporting obligations. In addition, an officer of each firm must certify that such audits have occurred, that recommendations from the audits have been implemented, and that the firm has established systems and procedures reasonably designed to achieve compliance with NASD reporting requirements.

NASD's action announced today includes the following firms:

Firm Name	Fine	No. of Late Disclosures	Failure Rate in Examined Areas
Merrill Lynch, Pierce, Fenner & Smith, Inc.	\$1,600,000	1,420	30%
American Express Financial Advisors, Inc.	\$700,000	770	44%
Wachovia Securities LLC	\$650,000	610	32%
Prudential Equity Group, LLC	\$550,000	490	27%
LINSCO/Private Ledger Corp.	\$450,000	390	71%
PFS Investments, Inc.	\$450,000	390	64%
Raymond James Financial Services, Inc.	\$400,000	350	60%
Metropolitan Life Insurance Co.	\$375,000	340	62%
NYLife Securities, Inc.	\$350,000	350	45%
WM Financial Services, Inc.	\$350,000	270	55%
Edward Jones & Co., LP	\$300,000	280	27%
Chase Investment Services Corp.	\$250,000	230	25%
AXA Advisors, LLC	\$250,000	210	31%
MML Investor Services, Inc.	\$250,000	220	69%
Banc of America Investment Services, Inc.	\$200,000	170	56%
ING Financial Partners, Inc.	\$200,000	160	77%
New England Securities	\$200,000	180	57%
J.P. Turner & Company, L.L.C.	\$185,000	140	62%
Financial Network Investment Corp.	\$185,000	130	74%
Allstate Financial Services, LLC	\$150,000	130	44%
RBC Dain Rauscher, Inc.	\$150,000	140	35%
Wells Fargo Investments, LLC	\$150,000	140	35%
World Group Securities, Inc.	\$150,000	140	61%
Farmers Financial Solutions, LLC	\$125,000	100	66%
InterSecurities, Inc.	\$125,000	120	41%
Jefferson Pilot Securities Corporation	\$125,000	110	48%
J.J.B. Hilliard, W.L. Lyons, Inc.	\$125,000	120	62%
Quick & Reilly, Inc.	\$125,000	120	51%
SunAmerica Securities, Inc.	\$100,000	95	33%

In settling with NASD, the firms neither admitted nor denied the allegations, but consented to the entry of NASD's findings.

NASD Bars Former AmSouth Broker for Fraud in the Sale of Variable Annuities

Sales Assistant Charged with Forgery and Falsification of Documents

NASD announced that James B. Moorehead of Starkville, MS, has been barred from the securities industry for engaging in fraud, forgery, and falsification of documents in connection with variable annuity sales. The transactions took place between March 2000 and April 2001 while Moorehead was a registered representative of AmSouth Investment Services, Inc.

Moorehead's sales assistant, Angela C. Wynne, has also been charged in connection with the scheme.

"The conduct of the broker in this case was reprehensible, and clearly merits the harshest penalty NASD can impose," said NASD Executive Vice President and Head of Enforcement Barry Goldsmith.

NASD found that Moorehead misrepresented the risks associated with investing in variable annuities and purposefully omitted risk disclosure statements from the performance hypotheticals his firm sent to customers. Moorehead also either forged, or caused his assistant to forge, customer signatures on 125 "Purchase Authorization Forms." These documents were intended to reflect customers' authorization to Moorehead to purchase variable annuities.

Moorehead also tried to make his variable annuity recommendations appear suitable by falsifying the suitability information on the Purchase Authorization Forms and on "Client Confidential Profiles." Moorehead directed his assistant to complete the forms with inaccurate information concerning the financial needs and condition of the customers.

In concluding this settlement, Moorehead neither admitted nor denied the charges, but consented to the entry of NASD's findings.

NASD has also filed a complaint against Moorehead's assistant, Angela C. Wynne, a general securities representative formerly associated with AmSouth. The complaint charges Wynne with forgery and falsification of documents. NASD is currently investigating the supervision of Moorehead and Wynne by AmSouth Investment Services, Inc.

Under NASD rules, an individual named in a complaint can file a response and request a hearing before an NASD disciplinary panel. Possible sanctions include a fine, order to pay restitution, censure, suspension, or bar from the securities industry.

NASD Permanently Bars Frank Quattrone from the Securities Industry for Refusal to Testify in NASD Investigation

Quattrone's Misconduct Termed "Egregious"

NASD's National Adjudicatory Council (NAC) has permanently barred Frank Quattrone from working in the securities industry in any capacity for refusing to testify in an NASD investigation concerning his role in possible document destruction, obstruction of justice, and other matters while at Credit Suisse First Boston (CSFB). The NAC overruled an earlier NASD hearing panel decision to fine Frank Quattrone \$30,000 and suspend him for one year. In ordering the permanent bar, the NAC called Quattrone's conduct "egregious" and said it "impeded an NASD investigation and undermined the NASD's ability to carry out its regulatory mandate."

In 2002, NASD's Enforcement Department had investigations underway that centered on the practices and policies of CSFB's Global Technology Group headed by Quattrone. The investigations centered on IPO spinning and conflicts of interest between research analysts and investment bankers. On Feb. 3, 2003, CSFB issued a press release announcing that it had placed Quattrone on administrative leave because of questions about whether Quattrone was aware of pending criminal and regulatory investigations when he sent an email to certain CSFB employees regarding document retention issues.

That same afternoon, NASD Enforcement sent Quattrone's attorneys a letter requesting that he appear on Feb. 12, 2003, for an on-the-record interview.

At his attorneys' request, NASD Enforcement agreed to postpone Quattrone's testimony and to take that testimony near Quattrone's home in San Francisco because of issues concerning Quattrone's health. But ultimately, Quattrone's attorneys informed NASD Enforcement that he declined to testify in any location, because of pending state and federal investigations into the same misconduct. In March 2003, NASD Enforcement charged Quattrone with violating NASD conduct rules by refusing to testify. Quattrone answered the charges by denying any wrongdoing; arguing that because of ongoing criminal investigations into the same misconduct, the Fifth Amendment prevented NASD from compelling him to testify, and asserting that by trying to force him to waive his constitutional right against self-incrimination, NASD violated its statutory duty to provide him with a fair opportunity to defend himself.

In a ruling issued on Jan. 16, 2004, an NASD hearing panel found that Quattrone violated NASD rules by failing to provide on-the-record testimony to NASD. The panel fined Quattrone \$30,000 and suspended him for one year, with the proviso that he would be barred in all capacities if he failed to testify, fully and unconditionally, within one year.

NASD Enforcement appealed the sanctions imposed by the hearing panel, arguing that the appropriate sanction was a permanent bar from the industry. Quattrone cross-appealed the panel's finding of liability.

NASD's NAC rejected Quattrone's Fifth Amendment privilege arguments, saying the Fifth Amendment "restricts only governmental conduct," and NASD's function as a regulator of the securities industry does not constitute government conduct. "NASD is incorporated as a private corporation, it does not receive state or federal funding, and its Board of Governors is not composed of government officials or appointed by a government official or agency," the NAC says in its ruling.

The NAC also rejected Quattrone's argument that NASD Enforcement failed to provide him with a fair opportunity to defend himself. To the contrary, it found that NASD Enforcement satisfied its statutory obligation and provided Quattrone with the procedural safeguards required by the federal securities laws.

"Enforcement made written requests for Quattrone's on-the-record testimony.... Pursuant to Quattrone's request, the testimony was rescheduled and relocated," the NAC's ruling says. "Enforcement's written requests for testimony stated that if Quattrone failed to comply, NASD could take disciplinary action against him that could result in sanctions, including a suspension or a bar from the securities industry. Quattrone was represented by counsel at all times, and he made a fully informed choice to refuse to provide testimony to NASD..."

The NAC ruling goes on to state that NASD's investigation into Quattrone's e-mail regarding document retention issues at CSFB was more than justified, saying, "There is no question that such questions regarding obstruction of justice are at the heart of NASD's regulatory role in preventing securities fraud and protecting investors."

"In view of the serious nature of Quattrone's misconduct and the lack of mitigating facts, we conclude that a bar is necessary in this case to protect the integrity of NASD's investigative responsibilities and its role as an SRO, serving the public interest," the NAC says in its ruling. "As a private entity without subpoena power, NASD must rely on (its procedural rules) to compel industry members to provide requested information about potential violations of the federal securities laws and NASD rules. Quattrone failed to meet his obligation to cooperate with Enforcement in its investigation, and therefore a bar is appropriately remedial.... We find that Quattrone's misconduct was egregious. Accordingly, we order that Quattrone be barred in all capacities."

The NAC is a 14-person committee composed of seven industry and seven non-industry members that decides appeals from disciplinary, membership, and exemption decisions; rules on statutory disqualification applications; and advises on other policy matters. NAC rulings can be appealed within 30 days to the SEC. An SEC ruling can be appealed to the U.S. Court of Appeals. Either party could petition the U.S. Supreme Court to review an appeals court decision